

# McDermott Will&Emery

**RECEIVED  
CENTRAL FAX CENTER**

JUL 28 2005

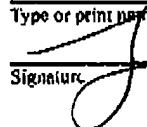
Boston Brussels Chicago Düsseldorf London Los Angeles Miami Milan  
Munich New York Orange County Rome San Diego Silicon Valley Washington, D.C.**FACSIMILE****Date:** July 28, 2005**Time Sent:**

<b>To:</b>	<b>Company:</b>	<b>Facsimile No:</b>	<b>Telephone No:</b>
Examiner Allen HEINZ	U.S. Patent & Trademark Office	571 273 8300	
<b>From:</b>	Michael E. Fogarty	<b>Direct Phone:</b>	(202) 756-8372
<b>E-Mail:</b>	mfogarty@MWE.com		
<b>Sent By:</b>	Rosanna Pase	<b>Direct Phone:</b>	(202) 756-8392
<b>Client/Matter/Tkpr:</b>	43890-622-3328	<b>Original to Follow by Mail:</b>	Yes
		<b>Number of Pages, Including Cover:</b>	9

**Message:**Re: U.S. Patent Application No. 10/628,558  
Inventors: Hideki KUWAJIMA, et al.IN RESPONSE TO THE OFFICE ACTION DATED JUNE 28, 2005, APPLICANTS HEREBY SUBMIT AN  
ELECTION UNDER 35 USC 121 AND PRELIMINARY AMENDMENT.

## Certification of Facsimile Transmission

I hereby certify that this paper is being facsimile  
transmitted to the Patent and Trademark Office  
on the date shown below.

Michael E. Fogarty  
Type or print name of person signing certification  
Signature:  Date: 7/28/05

The information contained in this facsimile message is legally privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copy of this facsimile is strictly prohibited. If you have received this facsimile in error, please notify us immediately by telephone and return the original message to us at the below address by mail. Thank you.

IF YOU DO NOT RECEIVE ALL OF THE PAGES, PLEASE CALL ROSANNA PASE AT 202 756 8392 AS SOON AS POSSIBLE.

Main Facsimile: 202.756.8087 Facsimile Operator: 202.756.8090

U.S. practice conducted through McDermott Will & Emery LLP.  
600 Thirteenth Street, N.W. Washington, D.C. 20005-3096 Telephone: 202.756.8000

RECEIVED  
CENTRAL FAX CENTER 002/009  
JUL 28 2005

Attorney Docket No.: 43890-622

PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of :  
Hideki KUWAJIMA, et al. : Customer No.20277  
Serial No.: 10,628,558 : Confirmation No.: 4746  
Filed: July 29, 2003 : Group Art Unit: 2653  
: Examiner: ALLEN J. HEINZ

For: PIEZOELECTRIC ACTUATOR, DISK DRIVE USING THE SAME AND  
MANUFACTURING METHOD THEREOF

ELECTION UNDER 35 U.S.C. § 121 Certification of Facsimile Transmission

Mail Stop FEE Amendment  
Hon. Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

I hereby certify that this paper is being facsimile  
transmitted to the Patent and Trademark Office  
on the date shown below.

*McDermott Will & Emery LLP*  
Type or print name of person signing certification

*[Signature]* *7/28/05*  
Signature Date

Sir:

In response to the restriction requirement set forth in the Office Action mailed  
June 28, 2005, having a shortened statutory period for response set to expire  
July 28, 2005, wherein the Examiner required restriction between the  
following Groups:

- Group I - Claims 12-13, are drawn to a combination magnetic disk drive utilizing a piezo actuator; and
- Group II - Claims 1-11, are drawn to a subcombination piezo actuator.

Serial No.: 10/628,558

Applicants elect Group I, claims 12-13, for initial prosecution on the merits. Applicants also reserve the right to file a Divisional Application for the non-elected claims 1-11, which the Examiner has indicated is patentably distinct.

Applicants believe that no extension of time is required. However, this conditional petition is being made to provide for the possibility that Applicants have inadvertently overlooked the need for a petition for extension of time. The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 50-0417. A duplicate copy of this Response is enclosed for accounting purposes.

Respectfully submitted,

McDERMOTT WILL &amp; EMERY LLP

Date: 7/28/05By: Michael E. Fogarty  
Registration No.: 36,139

600 13<sup>th</sup> Street, N.W., Suite 1200  
Washington, D.C. 20005-3096  
Telephone: 202 756 8000  
Facsimile: 202 756 8087

WIXC99 1114884-1.0438 X0.0622

Docket No.: 043890-0122

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : Customer Number: 20277  
Hideki KUWAJIMA, et al. : Confirmation Number: 4746  
Application No.: 10/623,558 : Group Art Unit: 2653  
Filed: July 29, 2003 : Examiner: Allen J. HEINZ

for: PIEZOELECTRIC ACTUATOR, DISK DRIVE USING THE SAME AND MANUFACTURING METHOD THEREOF

Certification of Facsimile Transmission

I hereby certify that this paper is being facsimile transmitted to the Patent and Trademark Office on the date shown below.

Michael E. Fogarty  
Type or print name of person signing certification

7/28/05  
Signature Date

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Transmitted herewith is an Amendment in the above-identified application.

- ☒ No additional fee is required.  
☐ Applicant is entitled to small entity status under 37 CFR 1.27  
☐ Also attached:

The fee has been calculated as shown below:

	NO. OF CLAIMS	HIGHEST PREVIOUSLY PAID FOR	EXTRA CLAIMS	RATE	FEE
Total Claims	9	20	0	\$50.00 =	\$0.00
Independent Claims	1	3	0	\$200.00 =	\$0.00
Multiple dependent claims newly presented					\$0.00
Fee for extension of time					\$0.00
					\$0.00
Total of Above Calculations					\$0.00

- ☐ Please charge my Deposit Account No. 500417 in the amount of \$0.00. An additional copy of this transmittal sheet is submitted herewith.
- ☒ The Commissioner is hereby authorized to charge payment of any fees associated with this communication or credit any overpayment, to Deposit Account No. 500417, including any filing fees under 37 CFR 1.16 for presentation of extra claims and any patent application processing fees under 37 CFR 1.17.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

Michael E. Fogarty  
Registration No. 36,139

Please recognize our Customer No. 20277 as our correspondence address.

600 13<sup>th</sup> Street, N.W.  
Washington, DC 20004-3096  
Phone: 202.756.8000 MEF:mp  
Facsimile: 202.756.8087  
Date: July 28, 2005